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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,832	08/25/2003	Marcus F. Doemling		3054

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EXAMINER	
PATEL, CHIRAG R	
ART UNIT	**PAPER NUMBER**
2141	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/647,832	DOEMLING ET AL.	
	Examiner	Art Unit	
	Chirag R. Patel	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-26 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As per claim 10, the written description does not fails to hint any indication or subject matter that relates to "wherein the alternate content is a *null content.*"

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the original content" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-9, 11-19, 21-22, and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. – hereinafter Brown (US 6,026,368).

As per claims 1 and 13, Brown discloses a method for limiting the delivery of content in a communications network environment comprising:

establishing the assumed frequencies with which subsets of a set of content elements have been viewed by individual users of the communications network environment; (Col 14 lines 13-22)

evaluating the assumed frequencies with regard to predetermined frequency targets; determining whether or not the evaluation of the assumed frequencies warrants the delivery of alternate content; (Col 17 lines 57-60)

providing a mechanism for the delivery of the alternate content; (Col 6 lines 28-42)

updating data stored in a communications network storage device to aid in determinations of whether the alternate content should be shown. (Col 3 lines 28-62)

As per claims 2 and 15, Brown discloses the method of claim 1, wherein the mechanism for the delivery of the alternate content enables publishers in the communications network environment to provide the alternate content. (Col 5 lines 30-39)

As per claims 3 and 16, Brown discloses the method of claim 2, wherein any given publisher within the communications network environment is provided with a mechanism to provide the alternate content that is independent of other publishers within the communications network environment. (Col 5 lines 30-39)

As per claims 4 and 17, Brown discloses wherein the data used in determining whether or not the frequency evaluation of the assumed frequencies with regard to predetermined frequency targets warrants the delivery of alternate content is stored in the content viewers web browser. (Col 5 lines 18-29)

As per claims 5 and 18, Brown discloses the method of claim 1, wherein the data used in determining whether or not the frequency evaluation of the assumed frequencies with regard to predetermined frequency targets warrants the delivery of alternate content is stored on a communications network storage device other than the content viewers web browser. (Col 19 lines 55-65)

As per claims 6 and 19, Brown discloses the method of claim 1, where an absence of available data for determining whether or not the frequency evaluation of the assumed frequencies with regard to predetermined frequency targets warrants the delivery of alternate content is interpreted in determining whether or not the delivery of alternate content is warranted. (Col 14 lines 13-22)

As per claims 8 and 21, Brown discloses the method of claim 1, wherein the delivery of the alternate content can be aborted and the original content can instead be delivered. (Col 5 lines 40-48)

As per claims 9 and 22, Brown discloses the method of claim 8, wherein the mechanism to abort the delivery of the alternate content is triggered from an event in the group consisting of:

a. a time delay in the process of determining whether or not the frequency evaluation of the assumed frequencies with regard to predetermined frequency targets warrants the delivery of the alternate content, (Col 12 lines 35-40)

b. a time delay in the delivery of the alternate content, (Col 12 lines 35-40)

c. an error in the process of determining whether or not the frequency evaluation of the assumed frequencies with regard to predetermined frequency targets warrants the delivery of the alternate content, (Col 10 lines 18-23)

d. an error in the delivery of the alternate content. (Col 21 lines 47-54)

As per claims 11 and 24, Brown discloses the method of claim 1, wherein the content is an advertisement. (Col 3 line 63 – Col 4 line 15)

As per claims 12 and 25, Brown discloses the method of claim 1, wherein the subset of the set of content elements is a proper subset of the set of content elements. (Col 5 lines 40-48)

As per claim 14, Brown discloses the method of claim 13, wherein the determination of whether the delivery of the alternate content is warranted for a particular user is based on the evaluation of the assumed frequencies with which particular subsets of a set of content elements have been viewed by the particular user within a particular subset of the set of publishers. (Col 3 lines 28-62)

As per claim 26, Brown discloses the method of claim 13, wherein the subset of a set of publishers is a proper subset of the set of publishers. (Col 4 lines 26-35, Col 5 lines 40-48)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 6,026,368) in view of Landsman et al. – hereinafter Landsman (US 6,371,761).\

As per claims 7 and 20, Brown discloses the method of claim 2. Brown fails to disclose a wherein the alternate content is provided by a mechanism in the group consisting of: a. Defining a Uniform Resource Locator (URL) pointing to the location where the alternate content is intended to be retrieved from, b. Defining a Uniform Resource Locator (URL) pointing to programming code that is intended to be retrieved and executed with the purpose of causing the display of the alternate content, c. Defining the alternate content within the content container, such as a web page, d. Defining programming code within the content container, such as a web page, that will cause the display of the alternate content, e. Redirecting the browser to a location within the publisher's authority, which enables the publisher to return the alternate content in response.

Landsman discloses wherein the alternate content is provided by a mechanism in the group consisting of: a. Defining a Uniform Resource Locator (URL) pointing to the location where the alternate content is intended to be retrieved from, b. Defining a Uniform Resource Locator (URL) pointing to programming code that is intended to be retrieved and executed with the purpose of causing the display of the alternate content, c. Defining the alternate content within the content container, such as a web page, d. Defining programming code within the content container, such as a web page, that will

cause the display of the alternate content, e. Redirecting the browser to a location within the publisher's authority, which enables the publisher to return the alternate content in response. (Col 3 line 24 – Col 4 line 21)

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to disclose a mechanism in the group to determine a URL and redirect the browser to a location within the publisher's authority to display the alternate content in the disclosure of Brown. The motivation for doing do would have been to download an advertisement from an advertising server to a web browser executing at a client computer, in a manner transparent to a user situated at the browser. (Col1 lines 25-35)

Claims 10 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, hereinafter Brown-1 (US 6,026,368) in view of Brown et al. – hereinafter Brown-2 (US 2006/0089969).

As per claims 10 and 23, Brown-1 discloses the method of claim 1. Brown-1 fails to disclose wherein the alternate content is null content. Brown-2 discloses wherein the alternate content is null content. ([0077]) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to disclose wherein the alternate content is a null content in the disclosure of Brown-1. The motivation for doing do would have been to swap a data packet containing no information that is inserted in

place of the unwanted portion of the data packet. ([0077])

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R. Patel whose telephone number is (571)272-7966. The examiner can normally be reached on Monday to Friday from 7:30AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pairdirect.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER